



Department of Planning, Housing, & Community Development

Mayor, Matthew T. Ryan

Director, Tarik Abdelazim

STAFF REPORT

TO: Zoning Board of Appeals Members
FROM: Planning, Housing and Community Development
DATE: December 6, 2013
SUBJECT: 37 Pine Street; Use Variance
TAX ID #: 160.34-1-54
CASE: 2013-29
COPIES: A. Sosa, T. Costello, L. Webb (District 4), File

A. REVIEW REQUESTED

This application would allow a Business Office and a Human Service Agency to operate in the R-3 District. The applicant has acquired the property at 37 Pine Street to operate their corporate headquarters, as well as a secondary use as a storefront and computer repair center. Neither of the two aforementioned uses is permitted in the R-3, Residential Multi-Unit Dwelling District, and the applicant requires a use variance to operate at the subject site.

The applicant plans to operate the headquarters of a technological-services business and retail space for computer repairs and graphic design work on the ground floor. The basement level will be occupied by an agency that serves the needs of the special needs community. The operations on the property will employ 20-25 people during the hours of 9:00am-7:00pm. The number of customers per day will remain relatively low because the retail use of the building is secondary to its use as a business office. Deliveries will be made daily via parcel delivery services such as FedEx and UPS.

In granting a use variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

- (a). **Economic deprivation**: That under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence;
- (b). **Unique circumstances**: That the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood;
- (c). **Neighborhood character**: That granting the variance will be in harmony with the spirit and intent of this ordinance and will not alter the essential character or quality of the neighborhood, endanger

public health or safety, or substantially diminish or impair property values in the neighborhood.

- (d). **Self-created hardship**: That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

B. ADDITIONAL REVIEWS

The proposal does not require approval from the Planning Commission.

239 L&M Review is required for this project due to its proximity to the Broome County Public Library.

The project is not located within any designated Historic Districts, and does not involve any designated Landmark Properties; review by the Commission on Architecture and Urban Design is not required.

The project is located within the Local Waterfront Revitalization Project boundaries; review by the Waterfront Advisory Committee is required.

C. SITE REVIEW

The subject property is located on the northeast corner of Pine Street and Fayette Street. The site is a 25,773 square foot lot and contains a 10,944 square foot building, previously used as a community center.

Land uses in the vicinity of the site consist of primarily commercial and multifamily residential, with several large institutional facilities in the area as well. Commercial activity includes Tranquil Bar & Bistro and the rear of a large commercial space that once housed the Sheltered Workshop on the south side of Pine Street, and a barbershop and Amici's Pizzeria to the east. There is a large DiRienzo Bakery facility to the west, as well as several multifamily dwellings. NYSEG stadium, the Phelps Mansion Museum and the Broome County Public Library are all in the immediate vicinity as well.

D. PREVIOUS ZONING BOARD & PLANNING COMMISSION ACTIVITY

33 Pine Street: In 2006, the Zoning Board of Appeals granted an area variance to allow Enrique Munoz to install a 64 square foot sign at his barber shop located was granted by the ZBA.

33-35 Pine Street: In 2001, the Zoning Board of Appeals granted a use variance allowing Rick Williams to operate a barbershop.

36 Pine Street: The Zoning Board of Appeals granted a request by Gerald O'Brien in 1992 for use and area variances to convert a two-family residence with a first floor commercial business to a four-family residence with a first floor business.

50 Pine Street: The Sheltered Workshop for the Disabled received approval from the Zoning Board of Appeals in 2001 to expand a non-conforming use by constructing a 2,250 square foot loading dock area.

30 Fayette Street: A request by David Duzba in 1985 to receive an area variance of off-street parking requirements for a rooming house was denied by the Zoning Board of Appeals.

32 Fayette Street:

- Sheltered Workshop was granted area variances to install two signs in 2002 with conditions.
- A Series A Site Plan was approved allowing the Sheltered Workshop to construct an off-street parking lot.
- In 1991 the volunteers of America withdrew an application for a use variance.

104 Henry Street: A use variance request by Emmerich Bares in 1991 to convert existing apartments and an office into a rooming house was denied.

E. ENVIRONMENTAL IMPACT

The applicant's proposal is a SEQR **Unlisted** Action. The Planning Commission may be the lead agency to determine any environmental significance.

1. Motion to determine what type of action:
 - a. Type I
 - b. Type II
 - c. **Unlisted**
2. Determine Lead Agency and other involved agencies.
3. Motion to schedule a public hearing.
4. After the Public Hearing, Determination of Significance based on:

Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems?	Aesthetic, agricultural, archaeological, historic or other natural or cultural resources; or community or neighborhood character?	Vegetation of fauna, fish, shellfish, or wildlife species, significant habitats, or threatened or endangered species?	A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?	Growth, subsequent development, or related activities likely to be induced by the proposed action?	Long term, short term, cumulative, or other effects not identified in C1-C5?	Other impacts (including changes in use of either quantity or type of energy)?
X	X		X	X		

F. STAFF FINDINGS

- 1. The Zoning Board of Appeals must determine that under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence.**

The building is not designed to accommodate residential use in its current state, and it would take a substantial investment to remodel it for residential use. The applicant has already made a substantial investment in purchasing the property from the City with the explicit intent of using it as its corporate headquarters.

- 2. The Zoning Board of Appeals must determine if the requested variance will produce an undesirable change in the character of the neighborhood.**

The proposed use would not produce an undesirable change in the character of the neighborhood. The land use in the immediate vicinity of the proposed site is mixed use, with several businesses in the area. In addition, the applicant does not propose any significant exterior site work that would have a negative aesthetic impact on the neighborhood.

- 3. The Zoning Board of Appeals must determine whether the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood.**

The hardship is unique to this property because it was a City owned facility with no history of use as a residential property, and it is not suited for future use as a residential property.

- 3. The Zoning Board of Appeals must determine whether the alleged difficulty was self created.**

The alleged difficulty is not self created because the property in question was sold to the applicant by the City with the understanding that it would not be a residential development.

If the Zoning Board of Appeals should choose to approve this application, Planning Staff suggests that the approval be granted with the following conditions:

Prior to the issuance of a certificate of occupancy, at least 3 street trees shall be planted along the Pine Street frontage and at least 2 street trees shall be planted along the Fayette Street frontage. The trees shall be spaced so as to be no closer than 30 feet from one another, and no closer than 35 feet from the street corner. A landscaping plan indicating the size, location and species to be planted shall be submitted to Planning Staff for approval prior to installation.

G. ENCLOSURES

Enclosed is a copy of the plans and site photographs.